

## Preface

The Institutional Statutes is a higher order document that establishes the University Senate, grants the University Senate its power jurisdiction, and gives the President the authority to interpret and settle conflicts of jurisdiction that arise regarding the Statutes and, thereby, the Bylaws of the University Senate. It derives its powers from the “first order” document – the Policy of the Board of Regents:

### Policy of BOR: 2.5.2 Ex-Officio Faculty Chair

The president shall be the ex-officio chair of the faculty and may preside at meetings of the faculty. The president and/or the president’s designee shall be a member of all faculties and other academic bodies within the institution. **He/she shall decide all questions of jurisdiction, not otherwise defined by the Chancellor, of the several councils, faculties, and officers**. The president shall have the right to call meetings of any council, faculty, or committee at his/her institution at any time. **The president shall have the power to veto any act of any council, faculty, or committee of his/her institution but, in doing so, shall transmit to the proper officer a written statement of the reason for such veto. A copy of each veto statement shall be transmitted to the Chancellor.** At those institutions that have a council, senate, assembly, or any such body, the president or the president’s designee may chair such body and preside at its meetings. The president shall be the official medium of communication between the faculty and the Chancellor and between the council, senate, assembly, or any such body and the Chancellor (BoR Minutes, 1993-94, p. 239; April, 2007).

Similarly, Article V Section 2 of the Institutional Statutes of Georgia College gives the president the authority to interpret the Statutes and Bylaws and the powers expressed in them to implement them.

**ARTICLE V, Section 2.** The President shall interpret these Statutes and any Bylaws, when necessary, and shall exercise expressed and implied powers to implement them.

And, Article II Section 2 D. of the Statutes authorizes the president to settle any conflict or jurisdiction or interpretation that arises regarding the Statutes, Bylaws, or any rules of order.

**ARTICLE II, Section 2.** The President shall settle all questions of conflict of jurisdiction or interpretation that may arise under these Statutes and any Bylaws or other rules of order at the Institution.

This document represents my best interpretation of the originating authority and the appropriate jurisdiction of the University Senate and the powers granted to the University Senate by the Institutional Statutes (the higher order document which establishes the University Senate Bylaws) and, indeed, by the Bylaws of the Senate itself.

## Interpretation by President

**Overview.** A long-standing tenant of the academy is that decisions about the curriculum, involving what is taught and what is not taught are made by the faculty. The faculty have the training, expertise, and view of their professions to “own” the curriculum at the university. Shared governance has generally agreed with this concept that the faculty “own” the curriculum. Shared governance has also generally accepted that the faculty closest to the curriculum issue has primacy or the highest degree of “ownership” in decision-making. Good administrators stay away from curriculum decisions and allow the faculty full ownership of the curriculum. Failure to abide by these tenants leads to opportunity for outside influences, political maneuvering and campaigning, or economic expediency to interfere with judgments about curriculum.

In the case at hand, faculty in an academic department of the university, in good faith, exercised shared governance, expressed their rights and voted to discontinue a major in an area for which they legitimately had oversight. Their vote was unanimously upheld by the college level curriculum committee and by the dean of the college. Primacy of this decision, therefore, was established with the vote of the departmental faculty and the endorsement of the local curriculum committee and the dean.

Under the principles of shared governance, local faculty should have primacy standing when questions of curriculum are considered. We would not, for example, ask the English faculty to determine the curriculum offered by the chemistry department. Therefore, it is counter to the concept of primacy that a University Senate committee or a University Senate, for that matter, insist on or require that a department or college teach a certain subject when the faculty of that department or college has determined that they should not. In fact, I have never heard of this happening.

**What is the role of the Senate in curricular matters?** The Georgia College & State University Institutional Statutes and the University Senate Bylaws are very specific about the role of the Senate at the university. The Institutional Statutes and the Bylaws of the University Senate state clearly the parameters of the University Senate to be policy. Note in Section 1.A that the powers and authority endowed by the University Senate are policy-making.

*1.Section1.A. The University Senate is endowed with all the legislative powers and authority of the University Faculty and shall be the **policy-making** assembly at the Institution.*

Indeed, Section 1.C of the Bylaws expressly states that **the University Senate shall not adopt ANY regulations affecting curricula** or the internal affairs of an academic unit unless it is to protect the institution as a whole. Clearly, the decision at hand is an attempt to affect the curricula and, by way of that, the internal affairs of an academic unit. Yet, it is also clear that the “institution as a whole” is not threatened by this decision regardless of the way it would be

decided. Hence, it appears that by this vote, the Senate has violated the Institutional Statutes of governance and its own Bylaws.

*I. Section 1.C. The University Senate shall not adopt any regulations affecting curricula, or the internal affairs of an academic unit except insofar as such action may be necessary to protect the interests of the Institution as a whole, but it may make recommendations to the faculty of an academic unit concerning matters within their jurisdiction.*

NOTE: The statements above are found in the University Senate Bylaws and are granted to the Senate by the Institutional Statutes as written and agreed upon in 2003. This is important as this was the original intent ascribed to the work of the University Senate and should be held as a mirror against which subsequent additions to the Bylaws should be viewed.

Finally, Section 1.2 (additional) of the GC Senate Bylaws continues this line of thinking, limiting the oversight of the University Senate to **recommending academic and institutional policy**.

*Section 1.2 (Additional) The University Senate exists to promote and implement effective shared governance at the university. It is expressly charged with **recommending academic and institutional policy**. In addition to its policy recommending responsibility, the University Senate serves in an advisory role to the administration, particularly in the implementation of policy or improvement of processes that have broad institutional impact or implications, including but not limited to planning and budgetary processes. The University Senate strives to be mindful and respectful of matters that are more appropriately handled at the divisional, college, and department levels, but may make recommendations concerning matters within these areas that have broader institutional impact or implications.*

Note that this section of the Bylaws is silent as to the University Senate's relationship to the curriculum. It does add the words academic and institutional to modify policy, but one must remember that this must be interpreted in light of the higher order document: the Institutional Statutes. The addendum specifically deals with the rights of the Senate as they have to do with **policy**, to provide advice to the administration regarding the implementation of policy and improvement of policy; but nowhere mentions curriculum as a part of the University Senate oversight. These Bylaws in fact, anticipate the potential for University Senate to take up issues more appropriately left to divisional, college, and departmental levels and **warns the University Senate to be mindful and respectful** of this of this potential.

Has the University Senate been "mindful and respectful" of the rights of the faculty in Health Sciences who in good faith to practice shared governance made a decision by faculty vote? How does the University Senate, by this vote, rationalize overlooking the rights of faculty who have been denied their rights to determine their own curriculum? How does the University

Senate explain away the “sacred” vote of faculty who assumed shared governance allowed them to make curricular decisions?

If this approach to the importance of primacy in shared governance process becomes precedent, then this would indeed constitute a concern that had “broad institutional implications and policy implications” and would thus qualify for University Senate involvement. So, in this case, if the University Senate would like to take up the issue of how we have denied rights of a faculty vote under shared governance, I think it would be very appropriate.

**What is the role of CAPC in this matter?** Section 2.C. b is an example of a section that must be viewed in light of the original charge of the University Senate and **the Institutional Statutes**. In other words, it must align to the original documents of powers delegated to the University Senate as noted in the above argument. A review of Section 2.C.b. of the Bylaws of the University Senate, prescribes the scope of the work of the Curriculum and Assessment Policy Committee. First, note that the name of the committee implies a limit to POLICY issues, which is in keeping with and aligns with other parts of the Bylaws. While it appears that the second sentence may extend the authority of the University Senate into curriculum issues, the sentence is very specific in its scope - limiting the work of the committee to REVIEWING and APPROVING degree programs. Nowhere does the charge anticipate that this committee would DENY the work of local faculty to determine their own curriculum. DENIAL of a curriculum change made by a local department not only requires the interjection of a word not there, it interjects the University Senate into the curriculum decision process in a way that **does not align with the totality of the Institutional Statutes and University Senate Bylaws** and adds DENIAL as an option not present in the University Senate Bylaws. Hence, to assume that the word DENY is implied because the word APPROVE is there is not consistent with the Bylaws of the University Senate and **does not align with the Institutional Statutes of the University Senate**; and therefore, should not be in keeping with the charge and scope of this committee. **DENY not being an option would mean that the decision of CAPC to deny a curriculum change is out of order.** Furthermore, in light of the fact that CAPC has NEVER issued a denial, this decision is not consistent with its charge nor in keeping with precedent set by its own history.

V. Section 2.C.2.b. Scope. The Curriculum and Assessment Policy Committee shall be concerned with policy relating to curriculum and academic assessment, which includes, but is not limited to, policies relating to general university degree requirements (e.g. General Education Curriculum, Foreign Language requirement, Wellness requirement), academic program assessment, and continuing education and non-degree programs. **In addition to its policy recommending function, this committee shall be responsible for reviewing and approving proposals to create or deactivate certificates, concentrations, degree programs, and minors, as well as the periodic review of general education requirements and learning outcomes.** This committee also provides advice, as appropriate, on procedural matters relating to curriculum and academic assessment.

**CAPC by precedent has yielded to primacy.** Additionally, as I have inquired to the past work of the University Senate in matters of curriculum, specifically the work of CAPC, I have come to understand that this is the ONLY time in the history of CAPC that it has denied the primacy of the decisions of the local faculty with regard to a curricular issue. Therefore, even CAPC, as a matter of practice and precedent has yielded to the primacy concept.

**Context of Senate vote.** Furthermore, I am confused by what occurred at the University Senate meeting on April 21. It was stated that this was a vote to “give the president our advice on this matter.” As noted above, it is not the charge of the University Senate to give advice to the president on curriculum matters. But for argument purposes, let’s assume that was the case. What was learned during the 15 minute ‘debate’ that would allow the University Senate to offer advice about a curricular matter? Was the case for sustaining the program provided? Was the case for eliminating the program provided? Was there a review of the number of graduates of the program and perhaps a future plan provided? Was the department chair invited to provide her assessment of the decision? Was the dean given the opportunity to provide her input? Was there enough information provided to allow each senator to provide a good assessment as to whether a program should be eliminated or sustained? If not, on what, then, was the basis for the vote? After 15 minutes of consideration, should this vote be given primacy over the faculty in the department and college who have thoroughly researched and labored over this decision for months? This, too, is perhaps another reason why the University Senate floor should not be place for curriculum discussions.

**Role of non-faculty in curriculum matters.** Finally, since the University Senate of Georgia College & State University as it is currently configured is not a select body of the faculty alone, but, rather, is comprised of faculty, staff, students and administration, one must also consider the impact of allowing non-faculty to “govern” the oversight of the university curriculum. Perhaps this is exactly why curriculum matters are not included in the oversight issues of the University Senate bylaws. The Senate of Georgia College is NOT a FACULTY Senate but a UNIVERSITY Senate. It would be unprecedented indeed for the faculty to yield curriculum decisions to staff, students and non-faculty administrators; yet, under the current circumstances, a vote on a curricular issue by the Georgia College University Senate yields the authority of the curriculum to non-faculty. I know of no university faculty in the nation who would agree to do this. Yet, on April 21, non-faculty Senators voted on a curriculum matter in University Senate proceedings – constituting a major failure of shared governance to acknowledge ownership of the curriculum BY THE FACULTY.

**Conclusion & Charge.** Finding that the BOR through the Institutional Statutes of Georgia College & State University has not ascribed curricular oversight to the University Senate; and finding that the University Senate of Georgia College & State University has not ascribed to itself in the Bylaws of the Senate the power to make curriculum decisions; and finding that the Provost or the academic units have not yielded up decisions pertaining to curriculum to the University

Senate; and finding that the historic precedent of decision-making under shared governance in general and as practiced at Georgia College yields primacy to local faculty in curriculum decisions; and finding that the university has historically placed in the hands of the faculty and the faculty alone decisions regarding curriculum; and finding that the faculty of Georgia College in no official documents have yielded their curriculum authority to the University Senate; and finding that, in this case, the shared governance rights of the prime faculty to determine their own curriculum seem to have been overthrown by a committee of the Senate that has issued an out-of-order decision as determined by their scope prescribed in the Bylaws and by precedent established by their own previous decisions; ***it is, therefore, my opinion that the University Senate of Georgia College & State University has no jurisdiction to issue a vote on this matter as interpreted by the Institutional Statues.*** A vote on a curricular issue is clearly not anticipated by the Bylaws of the Senate itself as determined by Section 1.C. Accordingly, the University Senate should only involve itself in a curricular issue if the whole institution was impacted. This decision clearly does not meet that threshold.

As President of this university and as a faculty member myself, I must stand for the shared governance rights of faculty to determine their own curriculum. I believe I have demonstrated to you earlier this year that I will not allow the shared governance rights of faculty to be undermined by administrative fiat when I returned to the entire university community a parking fee that appeared to have not had full shared governance oversight. Similarly, now, when it appears the shared governance rights of a local faculty who have primacy in curricular decision making, have been violated, then I am obligated to step in and protect the rights of this local faculty.

As noted at the beginning of this document, the Institutional Statues of Georgia College & State University require that the university president interpret the Statutes and Bylaws when necessary and exercise express and implied powers to implement them. I do this, now, only because it has by necessity fallen to me by this vote of the University Senate. I would have preferred the University Senate to have dealt with this issue in ways not requiring my input. However, this document represents my cautious attempt to interpret what I believe to be the original intent of the Institutional Statues and the Bylaws of the University Senate. Furthermore, I believe this interpretation is in keeping with best practices of shared governance at any university.

As noted at the beginning of this opinion, the BOR Policy 2.5.2 endows in the president of the various institutions the decision to settle question of jurisdiction:

**He/she shall decide all questions of jurisdiction, not otherwise defined by the Chancellor, of the several councils, faculties, and officers.**

Since the Senate and its committee CAPC had no jurisdiction to make this decision, therefore, there, technically, is nothing to veto. However, I will treat this procedurally like a veto and

hereby inform the presiding officer of the University Senate of my opinion and will hereby transmit this message to the Chancellor accordingly.

**The president shall have the power to veto any act of any council, faculty, or committee of his/her institution but, in doing so, shall transmit to the proper officer a written statement of the reason for such veto. A copy of each veto statement shall be transmitted to the Chancellor (BOR Policy 2.5.2).**

With this decision, I also charge the current presiding officer of the University Senate for Fall 2017 and the former presiding officer (2016-17) to meet with the University General Counsel during the summer and prepare for the University Senate reading at its first meeting during the retreat this August, a bylaws of the University Senate that fully aligns with the higher order documents: BOR Policy and Institutional Statutes, paying special attention to the role of the University Senate in curricular matters as prescribed by the higher order documents.

Further, I hereby charge the Provost to assemble a committee consisting of faculty members and members of the University Senate to put together a University Curriculum committee whereby the voice of the faculty will be represented in future curriculum decisions.

Finally, I charge the ECUS of the University Senate to consider an appeals process whereby decisions made by the various committees of the University Senate may be considered for appeal.